

Michigan Wine Maker & Small Wine Maker Licensing Requirements & General Information

A “**Wine Maker**” license is issued by the Michigan Liquor Control Commission (“Commission”) to a person located in Michigan to manufacture wine and to sell, at wholesale or retail, wine manufactured by that person.

- MCL 436.1113(9)

A “**Small Wine Maker**” means a Wine Maker that manufactures or bottles not more than 50,000 gallons of wine in 1 calendar year.

- MCL 436.1111(9)

A Wine Maker/Small Wine Maker License:

- License issued by the Commission to manufacturer and sell wine at wholesale or retail.
- May sell wine they manufacture to licensed Michigan wholesalers and to licensed Michigan retailers.
- May offer free samples to consumers from the winery premises.
- May sell wine they manufacture directly to consumers for off-premises consumption (take-out) from the winery premises.
- May sell wine they manufacture to consumers for on-premises consumption at the winery in conjunction with a restaurant at the winery premises.
- Must obtain a “Wine Producer’s” Basic Permit from BATF.
- \$100.00 annual license fee for Wine Maker; \$25.00 annual license fee for Small Wine Maker. License renews annually on May 1.

How To Apply For A Wine Maker or Small Wine Maker License:

Applicants for a Wine Maker/Small Wine Maker license must submit the following documents:

- **LICENSE APPLICATION** - “Application for New License, or Application of Buyers for Transfer of Ownership or Interest in License” (Form LC-687). Additional documents are required for corporate, LLC & partnership applicants, as described on pages 2 & 3.
- **INSPECTION FEE** - A \$70.00 nonrefundable inspection fee is required to authorize the field investigation. (Check payable to “State of Michigan”.)
- **BOND APPLICATION** - Surety Bond (Form MW-816) executed by an insurance company, authorized to do business in Michigan, in the amount of \$1,000.00 for the initial license. Subsequent year’s surety bond will be the greater of the previous year’s average monthly wine excise tax or \$1,000.00. **Bond application will be mailed to applicant upon Commission approval of application.**
- **PROOF OF FINANCIALLY RESPONSIBILITY** - Requirement to provide security for liability of not less than \$50,000. May be in the form of cash, unencumbered securities, liquor liability insurance, constant value bond, or membership in a group self-insurance pool authorized by law that provides security for liability under Section 436.803 of the Liquor Control Code. **Proof of Financial Responsibility (Form LC-95) will be mailed to applicant upon Commission approval of application.**

- **FEDERAL BASIC PERMIT** – “Wine Producer’s” Basic Permit, issued by the Bureau of Alcohol, Tobacco & Firearms (“BATF”). The Federal Basic Permit does not have to be submitted with the initial application. Issuance of this Permit by BATF will need to be verified prior to the Commission issuing a license. For Basic Permit info contact:

BATF
550 Main St.
Room 8002
Cincinnati, OH 45202
(800) 398-2282
www.atf.treas.gov

In addition to the preceding documents required by all applicants, **CORPORATIONS** shall submit the following information per Rule 436.1109:

- Copy of current, filed Articles of Incorporation.
- Current "Certificate of Good Standing" from the state where incorporated, if incorporated outside of this state.
- “Report of Corporate Officers, Directors & Board of Directors” (Form LC-52).
- “Individual Stockholder/Corporate Stockholder Questionnaire” (Form LC-621), completed by each stockholder holding 10% or more stock interest.
- “Limited Partners, Stockholders & Members Statement” (Form LC-38), completed by each stockholder holding less than 10% stock interest.
- *Note:* All stockholders holding 10% or more corporate stock in applicant corporation will be required to be fingerprinted by local law enforcement agency. Enforcement Investigator will release necessary forms and instruct you to contact local law enforcement agency.

In addition to the LC-687 and other documents required by all applicants, **LIMITED LIABILITY COMPANIES (“LLC”)** shall submit the following information pursuant to Rule 436.1110:

- Copy of Articles of Organization and copies of any amendments to the Articles of Organization.
- Copy of Certificate of Authority to do business in Michigan, if the LLC is a non-Michigan LLC.
- Copy of Operating Agreement entered into by members.
- Copy of most recent annual statement filed with the Michigan Department of Consumer & Industry Services, Corporations and Securities Bureau. Newly organized LLC’s will not have filed any such document yet.
- “Report of Limited Liability Company Members, Managers and Assignees” (Form LC-52A).
- “Individual Stockholder or Corporate Stockholder Questionnaire” Form (LC-621), completed by each member holding 10% or more of the total interest in LLC. Also, Form LC-621 should be completed for an assignee of a membership interest or a manager with a percentage distribution of 10% or more in the LLC.

- “Limited Partners, Stockholders or Members Statement” (Form LC-38), completed by member holding less than 10% of the total interest in the LLC. Also, Form LC-38 should be completed for an assignee of a membership interest or a manager with a percentage distribution of less than 10% in the LLC.
- *Note:* All members holding 10% or more interest in LLC and assignees of membership interest or managers with 10% or more percentage distribution will be required to be fingerprinted by the local law enforcement agency. The Commission Enforcement Investigator will release the necessary forms and instruct you how to contact the appropriate agency.

In addition to the preceding documents required by all applicants, **PARTNERSHIPS** shall submit the following information per R436.1111:

- Partnership Agreement (required for limited partnerships).
- “Application for New Licenses or Application of Buyers for Transfer of Ownership or Interest in License” (Form LC-687) completed by each general partner.
- “Limited Partners, Stockholders or Members Statement” (Form LC-38), completed by each limited partner. In the case where the limited partner is a corporation or a limited liability company, an “Individual Stockholder or Corporate Stockholder Questionnaire” Form (LC-621), should be completed by each of the limited partners.
- *Note:* All general partners will be required to be fingerprinted by local law enforcement agency. Enforcement Investigator will release necessary forms and instruct you to contact local law enforcement agency.

Send all applications to: Michigan Liquor Control Commission
 Manufacturers & Wholesalers Section
 P.O. Box 30005
 Lansing, MI 48909
 (517) 322-1415
www.michigan.gov/cis (Click on “Liquor Control”).

Licensing Process:

An investigation for a new license or transfer of an existing license is initiated by the applicant submitting an “Application for New License, or Application of Buyers For Transfer of Ownership or Interest in License” (Form LC-687), and the appropriate corporate, LLC or partnership documents, along with a \$70.00 inspection fee for each license applying for. Upon receipt of this information, the Commission’s Licensing Division will authorize an investigation and forward the file to the Commission’s Enforcement Division. An investigator from the Commission’s Enforcement Division will contact the applicant; advise them of the documentation necessary to be provided for review; and schedule an appointment with the applicant(s) to conduct the investigation. The investigation will cover a variety of areas including but not limited to: ownership structure; background of individuals; projected cost of the project/transaction; source of finances, including source of any money lender’s finances; present ownership verification; and physical inspection of the facility, if the physical premises is built and available for inspection. Upon completion of the investigation, the investigator will submit a report to the Commission.

The Commission investigator will also release forms and fingerprint cards to the local law enforcement agency and a resolution form to the local governing body. The local law enforcement agency's investigation is independent of the Commission's investigation. It is the responsibility of the applicant to follow-up with the local law enforcement agency and the local governing body to ensure that their recommendations are forwarded to the Commission.

The Commission will issue a formal order approving, denying, or holding the application for additional information. The applicant will be advised of the Commission's decision and provided with a copy of the Commission Order. If approved, the applicant will be provided with a check sheet listing any additional requirements or documentation necessary to be submitted to the Commission prior to issuance of the license and a contract for signatures. If the application is denied, the applicant will have the opportunity to appeal the denial.

License Fees:

Wine Maker: \$100.00 Small Wine Maker: \$25.00

Licenses are renewed annually. Licensing year is May 1 - April 30. The license fee may not be prorated for part-year licensure. License fee is payable upon MLCC approval of your application.

- MCL 436.1525

Manufacturing & Labeling:

Wine must be manufactured and labeled in accordance with federal wine regulations published in the Code of Federal Regulations (CFR), Title 27, Part 24. Wine must be labeled in accordance with the Code of Federal Regulations (CFR), Title 27, Part 4. Contact BATF for details.

- Rule 436.1707, Rule 436.1708

Label Registration:

All wine products sold in Michigan must have all labels approved by the Commission before the wine is sold in Michigan. All alcoholic beverage products sold in Michigan must be labeled in accordance with BATF regulations. The Commission may disapprove any wine label submitted for registration that is deemed to promote violence, racism, sexism, intemperance, or intoxication or to be detrimental to the health, safety, or welfare of the general public. To obtain Michigan approval, submit one copy of the Certificate of Label Approval ("COLA") approved by BATF and one set of loose labels, if readily available. Please do not stick labels on the COLA. One copy of the COLA will be returned to you with the Michigan registration number stamped on it. For cider and wine containing less than 7% alcohol by volume, send in a set of loose labels as no COLA is issued by BATF for those products. There is no fee for Michigan label registration.

- Rule 436.1719

Mandatory Label Information (Pursuant to BATF Regulations):

- Brand name listed.
- Class, type or, in lieu of, a truthful and adequate statement of composition shall appear on the brand label of the product.
- Name and address of bottler or packer and place (city/state) where bottled. Name must be preceded by "Bottled by" or "Packed by".
- Alcohol content must be listed. By definition, wine may contain ½ of 1% or more alcohol by volume but not more than 21% alcohol by volume. Table wine with alcoholic content of 11%-14% does not have to list the actual alcohol content. Listing "table wine" is adequate.
- Net contents.

Container Deposits:

Beer, mixed wine drink (wine coolers) & mixed spirit drink (spirit coolers) sold in containers of one (1) gallon or less must comply with the Beverage Container Act (The Initiated Law of 1976) by requiring a deposit of not less than 10 cents per container when sold to consumers.

Containers must be clearly labeled with the name of this state and the deposit amount. “MI” or “MICH” are acceptable abbreviations for Michigan. The wholesaler who sells the returnable containers to their retail customers initiates the container deposit.

- MCL 445.571 – MCL 445.576

Wine Excise Taxes & Monthly Reports:

Wine excise taxes apply to both wine and mixed wine drink. The Wine Maker or Small Wine Maker is responsible for paying the Michigan wine excise tax on all wine or mixed wine drink sold in this state. Sacramental wine sold to churches is exempt from taxes. Sales made by a Wine Maker/Small Wine Maker out-of-state are nontaxable.

A report of operations is due not later than the fifteenth day of the month for the preceding month's activity. Payment of the wine excise tax shall accompany the report. A supply of these monthly reporting forms and instructions will be mailed to you upon licensure.

Tax Rates: **16% or less alc.** = \$.135 (13 & 1/2 cents) per liter.

Over 16% alc. = \$.20 (20 cents) per liter

- MCL 436.1303, Rule 436.1725

Samples To Consumers:

A Wine Maker or Small Wine Maker may offer free samples to consumers for on-premises tasting at the winery premises. The samples must be of products manufactured and sold under the Wine Maker or Small Wine Maker license. A Wine Maker or Small Wine Maker may not sell samples to consumers except in conjunction with a restaurant operated at the winery premises.

- MCL 436.2025

Sales To Consumers From Winery:

A Wine Maker or Small Wine Maker is authorized to sell wine manufactured by the Wine Maker or Small Wine Maker from the winery premises to consumers for off-premises consumption (take-out sales) with no additional license.

A Wine Maker or Small Wine Maker may deliver wine to a consumer via their own delivery vehicle or through a delivery agent such as Federal Express, UPS, etc. The winery is responsible for verifying the person placing the order is of legal age and must record the name, address, date of birth and phone number. The shipping package must be must be labeled as containing alcoholic liquor and must have the name and address of the person placing the order and the name of the designated recipient. The delivery agent must verify that the person accepting delivery of the wine is at least 21 years of age or older.

A Wine Maker or Small Wine Maker may also sell wine that they manufacture by the glass for consumption on the premises in a restaurant at their winery premises that is owned by the Wine Maker or Small Wine Maker or is leased to another person. Only wine manufactured by the Wine Maker or Small Wine Maker may be sold by the glass in a winery restaurant.

- MCL 436.1111(9), MCL 436.1113(9), MCL 436.1537(2)

Tasting Room License:

Licensed Wine Makers/Small Wine Makers may apply for a Tasting Room license located off the winery licensed premises. The Wine Maker/ Small Wine Maker may offer free wine tastings and may sell for off premise consumption only, wine made by the Wine Maker/Small Wine Maker. As with other tastings & sales, only wine made by the Wine Maker/Small Wine Maker may be sampled or sold with the Tasting Room license. Under no circumstances may any other alcoholic beverage products other than those produced by the Wine Maker/Small Wine Maker be sampled in the Tasting Room. **Wine can't be sold by the glass for consumption at the tasting room premises. Only free samples may be provided.** An annual license fee of \$100.00 per location shall be paid for the Tasting Room.

- MCL 436.1537(3)

Sales To Wholesalers:

A Wine Maker or Small Wine Maker may sell their products to licensed Michigan wholesalers who in turn may resell the wine to licensed Michigan retailers. A Wine Maker or Small Wine Maker must grant each wholesaler a written agreement specifying the sales territory within which the Wholesaler shall be the distributor of the specified brand or brands of wine. The sales territory agreed upon by the Wine Maker or Small Wine Maker and wholesaler does not necessarily have to be exclusive. That is, more than one wholesaler may be granted the same sales territory for a specified brand, except for mixed wine drink (wine coolers) which by law require exclusive territory representation. All sales to wholesalers must be for cash only. Quantity discounts to wholesalers are legal as long as the discount is nondiscriminatory.

- MCL 436.111(9), MCL 436.1113(9), MCL 436.2013, Rule 436.161625, Rule 436.1726

Sales To Retailers:

A Wine Maker or Small Wine Maker is authorized to sell their wines to licensed retailers. A Wine Maker or Small Wine Maker selling their wines to retailers must file with the Commission in Lansing, before January 1, April 1, July 1, and October 1 of each year, a schedule of the net cash prices to retail licensees. The net cash price shall not be changed during the quarter without first notifying the Commission in writing of the price changes. "Post offs" (price reductions) shall **not** be granted for periods of less than 14 consecutive calendar days in duration. Quantity discounts to retailers are prohibited. All sales to retailers must be for cash only.

- MCL 436.1111(9), MCL 436.1113(9), Rule 436.1726

Interest In Another License:

A wine maker or small wine maker is prohibited from holding any direct or indirect interest in any other alcoholic beverage wholesale, retail or supplier license. Examples of prohibited interests include stock ownership; leasing real estate to/from another licensee; interlocking officers or directors; and financial interest in any manner, such as a moneylender, in another license.

- MCL 436.1603

Rebates, Special Purchase Allowances, & Quantity Discounts:

A Wine Maker or Small Wine Maker is prohibited from rebating any money to wholesalers. A special purchase allowance may be offered to wholesalers as long as the allowance is offered to all wholesalers and is based on the wholesaler purchases at the time of the allowance and not based on past sales. A Wine Maker or Small Wine Maker may offer quantity discounts to their wholesalers but may not offer free merchandise to their wholesalers.

- MCL 436.1609

Bulk Wine Used For Blending:

A Wine Maker or Small Wine Maker may purchase bulk wine to be used for blending purposes from a licensed Outstate Seller of Wine. A shipment of bulk wine to a Wine Maker or Small Wine Maker must be accompanied by a “Release of Alcohol or Alcoholic Beverages for Commercial Use” (LC/MW 836) approved by the Commission.

- Rule 436.1721

Salesperson License:

Any person employed by a Wine Maker or Small Wine Maker to sell, deliver, promote, or otherwise assist in the sale of alcoholic liquor in this state is required to hold a Salesperson license issued by the Commission. Office staff and winery personnel who work exclusively at the winery premises and have no personal contact with retailers or consumers off the winery premises do not need a Salesperson license. Salesperson's must be 18 years of age or older. Salesperson licenses are \$35.00 for three-year licensing period. Licensed salespersons are prohibited from being employed by a retail licensee on a paid or any other basis. Licensed truck drivers or delivery persons are prohibited from consuming alcoholic beverages while on duty.

- Rule 436.1853

Territory Agreements:

A Wine Maker or Small Wine Maker must provide each of their wholesalers with a written territory agreement specifying the brand or brands of beer, wine or mixed spirit drink and the territory in which the wholesaler shall have distribution rights. Wholesalers are prohibited from selling alcoholic beverages outside of their assigned sales territories. The assigned sales territory for wine does not have to be exclusive. Suppliers may overlap territories between wholesalers for similar brands of wine. The territory assigned for beer, mixed wine drink (wine coolers) and mixed spirit drink (spirit coolers) must be an exclusive. There can be no overlapping sales territories between wholesalers for similar brands of beer, mixed wine drink or mixed spirit drink.

- MCL 436.1305 & MCL 436.1307

Aid and Assistance:

Section 609 of the Code, being MCL 436.1609, and Rule 436.1035 prohibit alcoholic beverage manufacturers, suppliers or wholesalers from aiding or assisting any other licensee by giving them anything of value. Further, a licensee is prohibited from accepting aid and assistance from another industry member. Alcoholic beverage suppliers are prohibited from giving anything of value to their wholesalers or retailers. Likewise, alcoholic beverage wholesalers are prohibited from giving anything of value to their retailers. This principle is the cornerstone of Michigan's trade practices regulatory structure. It is designed to provide a level playing field for all industry members.

Suppliers and wholesalers are prohibited from giving anything of value to retail licensees, including but not limited to: alcoholic beverages, merchandise, furniture, fixtures, equipment, uniforms, cash or loans, labor, etc. While wholesalers and suppliers may provide point-of-sale materials such as posters, banners, table tents, flyers, etc., to retailers promoting their brands and prices, they are prohibited from providing anything that has any secondary use, value or purpose, other than actual advertising value to retailers without prior Commission approval. This same principle prohibits suppliers and wholesalers from providing free advertising, incentive programs, free or discounted product, draft system installation and maintenance, etc. Violations in the aid and assistance statute will result in all participants (retailer, wholesaler and supplier) being cited before the Commission.

- MCL 436.1609, Rule 436.1035

Record Retention:

All licensees are required to maintain all sales, purchase and salesperson expense records for a minimum of four (4) years. Records may be maintained electronically or otherwise as long as a hard copy of the record can be created upon demand.

- Rule 436.1007, Rule 436.1641, Rule 436.1865

Sales For Cash Only:

The Liquor Control Code requires the sale and purchase of all alcoholic beverages to be for **cash only**, at the time of delivery to wholesalers or retailers. Consumers may use bona-fide credit cards to pay for purchases from the winery.

- MCL 436.2013

Inspection of Premises and Books & Records:

A licensee must make the licensed premises available for inspection and search by a Commission Investigator or any law enforcement officer empowered to enforce the Commission's rules and code during regular business hours or when the premises is occupied. The Commission or its duly authorized agent may examine the books, records or papers of a licensee.

- MCL 436.1217, Rule 436.1645

Samples:

Wine Makers and Small Wine Makers are allowed to sample their products with on-premises or off-premises retail licensees and the retailer's employees. Sample tastings may not be offered to consumers. All containers used to sample products with retailers must be marked with the word "Sample" in lettering at least ½-inch high. While Wine Makers and Small Wine Makers may offer tasting samples to retailers from multiple beverages, only one (1) sample container of 750 ml size or smaller may be left with a retail licensee for sampling by the retailer and their staff. Again, the container must be marked "Sample". A sample container must be removed from the premises within 24 hours and again may not be sampled by consumers.

- Rule 436.1001, Rule 436.1421, Rule 436.1511, Rule 436.1513, Rule 436.1863

Purchasing Drinks For Consumers:

A licensed Salesperson, for promotional purposes, may purchase one (1) wine drink for each customer of an on-premises retail licensee only. The drink shall be purchased from the on-premises licensee and shall be of a brand represented by the salesperson.

- Rule 436.1865

Advertising and Promotions:

Inside advertising signs must be unilluminated and no more than 3,500 square inches in dimension. Advertising that promotes anything other than or in addition to your alcoholic beverage product requires prior commission approval. Point-of-sale advertising may not contain the name of any retail licensee or promote anything other than your products. Advertising on anything having any secondary value, use or purpose other than advertising, requires prior Commission approval. Direct all advertising and promotion requests to Manufacturers & Wholesalers Section.

- Rule 436.1301 – Rule 436.1339

Permits:

There are additional permits that a Wine Maker or Small Wine Maker might want to apply for to be held in conjunction with their primary license.

- **Outdoor Service Permit** - Permit allows the sale and consumption of alcoholic beverage in outdoor patio areas. The area must be under the control of the licensee.
- **Direct Connection** - Technically this is not a Permit but rather permission from the Commission to maintain a direct connection between licensed premises and nonlicensed premises. This permission will be required if your operations include multiple license holders who maintain inside connections to either nonlicensed premises or licensed premises under the control of another licensee.
- **Living Quarters Permit** - Permit required when living quarters are directly connected to the licensed premises.

Food Establishment License:

The Michigan Food Law (Act 92, P.A. of 2000) requires all food establishments, including processing operations such as wineries and breweries, to obtain a food establishment of one type or another. Contact the Michigan Department of Agriculture (“MDA”) for details on the specific food establishment license required for your operation.

MDA
525 West Allegan St.
P.O. Box 30017
Lansing, MI 48909
(800) 292-3939
www.michigan.gov/mda

How To Contact BATF:

BATF may be contacted as follows: www.atf.treas.gov

Federal Basic Permits:

BATF

Technical Services

550 Main St., Rm 6525

Cincinnati, OH 45202

(800) 398-2282

Federal Label Approvals:

BATF

Alcohol Labeling & Formulation

650 Massachusetts Ave., N.W.

Washington, DC 20226

(866) 927-2533

Michigan Regional Office:

BATF

1155 Brewery Park Blvd.

Suite 300-A

Detroit, MI 48207-2602

(313) 393-0085

How To Contact The Michigan Liquor Control Commission:

Questions relating to Wine Maker/Small Wine Maker licenses and other non-retail licenses may be directed to:

Michigan Liquor Control Commission

Manufacturers & Wholesalers Section

P.O. Box 30005

Lansing, MI 48909

(517) 322-1415

(517) 322-5046 (fax)

E-mail: twhite@michigan.gov

Website: www.michigan.gov/cis (Click on “Liquor Control”).